



George Washington University Law School Scholarly Commons

Government Procurement Law Perspectives

Publications

Fall 2013

Government Procurement Law Perspectives: Fall 2013

Government Procurement Law Program
George Washington University

Follow this and additional works at: https://scholarship.law.gwu.edu/governmentprocurement_perspectives



Part of the [Government Contracts Commons](#)

Recommended Citation

Government Procurement Law Program, "Government Procurement Law Perspectives: Fall 2013" (2013).
Government Procurement Law Perspectives. 4.
https://scholarship.law.gwu.edu/governmentprocurement_perspectives/4

This Book is brought to you for free and open access by the Publications at Scholarly Commons. It has been accepted for inclusion in Government Procurement Law Perspectives by an authorized administrator of Scholarly Commons. For more information, please contact spagel@law.gwu.edu.



GOVERNMENT PROCUREMENT LAW

Perspectives

PROGRAM ESTABLISHED 1960

PERSPECTIVES

Pachters Give Generously to the Program



Ilene and John Pachter

John Pachter, JD '66, LLM '70, co-founder of Smith, Pachter, McWhorter PLC, and longtime member of the Government Contracts Advisory Board, recently notified the GW Law Development Office that he and his wife Ilene have established charitable remainder trusts that benefit the Government Procurement Law Program. This action, together with a charitable annuity the Pachters created last year, puts their total gifts in the significant leadership category.

Interim Dean Gregory Maggs praised the Pachters for their "extraordinary generosity and commitment to GW Law." Dean Maggs said that "gifts like these

help ensure the future stability of the Law School and the Government Procurement Law Program." Associate Dean Daniel I. Gordon noted that this gift is only the most recent testimony to the Pachters' vigorous support of GW's Government Procurement Law Program, and to the strengthening of the public contract bar in general. Calling Pachter "one of the deans of the public contracts bar," Gordon noted that in 2012 John became the first recipient of American Bar Association Section of Public Contract Law's Allan J. Joseph Award for Excellence in Leadership. He has also held a range of senior leadership positions in the ABA, including, among many others, Chair of the Section of Public Contract Law and Section Delegate to the ABA House of Delegates. "We at GW are profoundly appreciative of, and humbled by, John and Ilene's generosity," said Associate Dean Gordon, "and their gifts will inspire us to redouble our efforts to strengthen the Program."

Rich Collins, GW's Associate Vice President for Law Development, noted that "estate planning and planned gifts are strong ways to support GW Law and its programs. They ensure the stability of the program, and at the same time provide valuable benefits to the donor." Charitable remainder trusts can provide security for family members, preserve assets by minimizing the federal tax burden and help individuals accomplish their philanthropic goals. For more information about estate and planned giving opportunities, please contact Richard Collins at rcollins@law.gwu.edu. ■

Read an interview with John Pachter on page 3.

FALL 2013 ISSUE

PERSPECTIVES 1

NEWS 2

ALUMNI PERSPECTIVES 3

NOTABLE EVENTS 4

FACULTY NEWS 7

SELECTED PROGRAMS,
PRESENTATIONS,
AND PUBLICATIONS 10

STUDENT NEWS 12

March Program on Competition and Procurement



Linda P. Hudson, CEO of BAE Systems, Inc., delivers the keynote luncheon address.

In March the Government Procurement Law Program hosted a unique event that investigated the intersection of competition policy and procurement law. The Honorable Frank Kendall, Under

continued on page 9

News

Lynn David Funds Chair in Government Contracts



Lynn David and Professor Christopher Yukins

Interim Dean Gregory Maggs announced recently that Lynn David, a supporter of GW Law's Government Procurement Law Program for many years, has made what he called "a very generous gift" to the Law School. Her gift is being used to create the Lynn David Research Professorship in Government Procurement Law. Lynn David is the principal in David Associates, a national recruiting firm, and for many years she has helped our graduates find legal positions in the government contracting community.

Christopher Yukins has been appointed as the first Lynn David Research Professor in Government Procurement Law. Research professorships provide important funds to faculty members to conduct research in their legal field. Professor Yukins is currently conducting research into World Bank procurement policies, sanctions, and international trade issues involving procurement, and is developing new curricula in anti-corruption and foreign contracting issues. Calling her "a longtime friend who is also a longtime friend of the GW Government Procurement Law program," Professor Yukins publicly thanked Lynn for her gift, saying that "Lynn David's extraordinary generosity enables the Program to engage in intellectual innovation." Associate Dean Gordon noted that "it is gifts like Lynn's that permit GW Law to maintain its unique stature in government procurement law." ■

Public Contract Law Journal Delivers

Published quarterly by the Section of Public Contract Law of the American Bar Association in cooperation with GW Law, the *Public Contract Law Journal* (PCLJ) has for many years served as the premier forum for innovative scholarly articles about public procurement law. Under the leadership of Editor-in-Chief Patricia H. Wittie,

JD '77, working with Student Editor-in-Chief and Roger Boyd Scholar George E. Petel, JD '14, the *PCLJ* also furnishes GW Law students serving on the student editorial board unique opportunities to work with a wide variety of members of the contracts bar, including the members of the ABA editorial board and authors of articles being prepared for publication.

The most recent issues of the *PCLJ* include articles on a broad range of topics, from recent case law of the Federal Circuit to corruption in municipal procurement in Augusta, Georgia.

continued on page 9

Gordon Testifies Before House Oversight & Government Reform Committee

On February 27 Associate Dean Daniel I. Gordon testified before the Oversight and Government Reform Committee of the U.S. House of Representatives regarding reform of federal information technology acquisition and management, including the provisions of the draft Federal Information Technology Acquisition Reform Act bill. This was the first time that Gordon testified

before Congress in his capacity as GW Law's Associate Dean for Government Procurement Law Studies. Among the highlights of his testimony were constructive exchanges between him and the Committee Chair, Representative Darrell Issa (R-Calif.), and with the Ranking Minority Member, Representative Elijah Cummings (D-Md.), as well as Representative Gerald Connolly (D-Va.). Testifying alongside Associate Dean Gordon were the Chief Information Officer of the Department of Homeland Security, the Government Accountability Office's Director for Acquisition and Sourcing Management, the President of the Professional Services Council, and Amazon.com's Vice President for Global Public Policy. Associate Dean Gordon's written testimony is available at bit.ly/gwlaw_gc. ■



Associate Dean Daniel I. Gordon presented testimony before the House Oversight and Government Reform Committee.

Alumni Perspectives

John Pachter, JD '66, LLM '70

John, let me start by asking how you came to practice procurement law.

First of all, I want to thank GW Law for giving me this opportunity to share my thoughts on the profession. Toward the end of the Basic Officer's Course at the Army JAG School in Charlottesville, we were given an opportunity to state our preference of location and practice area for our initial assignment. I picked Washington, D.C., and government contracts, and I got both. Since I had attended GW, I was familiar with Washington. I also knew about the government contracts program led by Professors Nash and Cibinic, although I had not taken any of the courses. John Cibinic, however, taught the second semester of Contracts my first year, so I knew and respected him as a professor.

I was assigned to the Office of the Judge Advocate General, the Pentagon, Litigation Division, Contract Branch, and later to the Contract Appeals Division, where I was a trial attorney handling cases before the Armed Services Board of Contract Appeals. I also took night classes in GW's Government Procurement Law Program, wrote a thesis, and received my LLM. It was an exciting time with all these events so soon after law school, not to mention two children who arrived during my four years in the Army.

Would you recommend procurement law to a student entering law school now?

I absolutely would. It continues to be an excellent career choice. As long as the government buys goods and services, there will be a need for lawyers. I take pleasure in seeing young attorneys warm to the practice area the way I did. The term "government contracts" can be misleading to uninitiated law students who think of offer, acceptance, consideration, and so

forth from their first-year contracts course. Government procurement law is in fact a branch of administrative law with other areas, such as constitutional, labor and employment, taxation, and environmental law, as well as socio-economic policy and accounting thrown into the mix. Not to mention the tremendous variety of goods and services being purchased.

Which aspects of your current practice of law most appeal to you? Which do not?

Most of all, I enjoy working with young lawyers, much as you enjoy working with students. I learn from them and draw energy from them. I'm refreshed by their enthusiasm, their professionalism, and how quickly they adapt to the practice. I also enjoy working with counsel in other law firms, and in government, industry, and academia. We are fortunate that our practice area attracts and develops attorneys with high ethical and professional standards.

Occasionally we run into the other kind, those who use questionable tactics or exhibit uncivil behavior. I'm pleased to say they stand out as exceptions. My first senior partner, the late Trowbridge vom Baur, stressed the importance of civility, lamented its passing, and cautioned against sarcasm or personal attacks. He was fond of saying "there are two kinds of lawyers—the good ones and the comedians. Don't be a comedian." You might not think of scorched earth tactics as comical, but Trow had his own way of dealing with absurdities.

In recent years I've become more involved in corporate ethics and compliance and have been privileged to serve in the role of independent monitor for several companies. This has introduced a new dimension to my work. The opportunity to assist companies in working their way out of distressed situations has been especially rewarding. I have also been called as an expert witness in a variety of cases. This has been educational and has provided new insights into the practice of law. As a result, I think every lawyer should have the experience of being cross examined on the witness stand, to become more familiar with and sympathetic to "the plight of the poor witness," to borrow another expression from Trow vom Baur.

continued on page 5

Katie John, JD '12

We recently sat down with Katie John, JD '12, to hear her reflections on her time at GW Law and at McKenna Long & Aldridge LLP, where she is now an associate. Here's what we heard:



Looking back at your time as a student at GW Law, what is your fondest memory?

This is a hard question, because I have a lot of fond memories, both personally and professionally. Watching the sun rise on the steps of the Lincoln Memorial after the end of my 1L year was pretty cool, as was getting to poll the "jury" after both my Trial Advocacy final and the final round of the Cohen & Cohen mock trial competition. As Senior Articles Editor for the *Public Contract Law Journal*, I got to call our new members and let them know they'd been selected for the journal. That, for me, was one of the most exciting things I did during law school. Finally, at graduation, Dean Schenck was on-stage to shake everyone's hand. I got to work with her closely because she was the faculty advisor in an external moot court competition that I did. Instead of receiving the standard handshake, Dean Schenck not only gave me a hug, but she picked me up. What a great way to end law school!

What did you get at GW Law that has helped you the most, in terms of actually practicing law?

Learning to think about how the law should work. In a lot of my government contracts courses, we not only covered what the law is, but how the doctrines developed and what behavior various FAR provisions are trying to incentivize. Most of the time, clients aren't calling to ask us about an area of the law that is black-and-white—they are calling about areas of ambiguity, and with questions that they couldn't answer in-house. In those situations, my classwork at GW prepared me to look at the applicable regulations or decisions and delineate,

continued on page 6

Notable Events

Packed House for Program on Suspension & Debarment



Richard Beutel and Eric Cho

One might expect that a Friday morning program in mid-summer Washington wouldn't attract many attendees, but the Tasher Great Room was filled to capacity on July 12 for a program about a draft bill to change the way the federal government handles suspension and debarment. GW Law's Media Center created a web-based

audio feed to allow dozens more to listen in. The subject of the program, which was co-hosted by TechAmerica, was the Stop Unworthy Spending (SUSPEND) Act, draft legislation offered by Chairman Darrell Issa (R-Calif.) of the House Oversight & Government Reform Committee. As Associate Dean Daniel I. Gordon pointed out in his opening remarks, the program was typical of GW Law's events—a topical subject addressed by stakeholders representing a wide range of views. Chairman Issa's key staffers on the draft bill, Richard Beutel and Eric Cho, JD '07, first discussed the reasons for the legislation and then summarized its key provisions. They were followed by Mathew Blum, JD '88, Associate Administrator for Federal Procurement Policy in the Executive Office of the President, who shared his perspectives on suspension and debarment. Trey Hodgkins, Senior Vice President of TechAmerica, presented his assessment of the draft bill. David Sims, Chair of the Interagency Suspension & Debarment Committee (ISDC), then addressed a number of matters, with a focus on the recent work of the ISDC. Sims was followed by Steven Gordon of Holland & Knight, the co-author of a recent article on suspension and debarment that was



Assistant Dean Jessica Tillipman

included in the program material, who explained his thoughts about improving the current suspension and debarment system. Finally, Steve Shaw, of GW Law's Government Contracts Advisory Board member Covington & Burling, shared his insights, drawing on both his many years of practice in the Air Force and his more recent experience assisting clients at Covington. Jessica Tillipman, Assistant Dean for Field Placement, then facilitated a lively discussion about the pros and cons of the draft bill's provisions. Audience members submitted what Professor Christopher Yukins referred to as "a record number" of written questions and comments. Fortunately, Rich Beutel and Eric Cho agreed to take back with them to Capitol Hill all the comments and questions from the audience, with their thanks to GW Law and TechAmerica for initiating the program. ■

McKenna Long & Aldridge "Gilbert A. Cuneo" Government Contracts Moot Court Competition



Joshua Schmand (at podium) and Jeffrey Stricker (seated to his left) argue before Judges Thomas C. Wheeler, George W. Miller, and Nancy B. Firestone.

GW Law moot court tradition continued with the final round of the 2013 McKenna Long & Aldridge "Gilbert A. Cuneo" Government Contracts Moot Court Competition. Twenty-two teams initially faced off, leading up to the two remaining teams arguing before a bench that included Judges George W. Miller, Nancy B. Firestone, and Thomas C. Wheeler of the U.S. Court of Federal Claims. The team of Bradley Carroll, JD '13, and Keith Lusby, JD '13, prevailed in the competition and also won for best briefs. The team of Joshua Schmand, JD '13, and Jeffrey Stricker, JD '13, was named runner-up. Awards for overall excellence went to Stephanie Rohrer, JD '13, Nina Rustgi, JD '14, and Alex Weinstein, JD '13, while awards for excellence in oral advocacy went to Allison Geewax, JD '14, Julia Lippman, JD '13, Michelle McCall,



(from left) Winning team members Bradley Carroll and Keith Lusby pose with McKenna Long & Aldridge partners Allison Doyle and Fred Levy by a portrait of Gilbert A. Cuneo.

JD '13, and LLM candidate Robert Wu, with George Petel, JD '14, and Lauren Youngman, JD '13, winning awards for excellence in written advocacy. The award for Best Overall Competitor went to Daniel Cook, JD '13.

The Law School is grateful to the law firm of McKenna Long & Aldridge for its ongoing sponsorship of and support for this competition. ■

GOVERNMENT PROCUREMENT LAW PERSPECTIVES

Government Procurement Law Perspectives is published by the Government Procurement Law Program at The George Washington University Law School.

Leadership of the Government Procurement Law Program:

Daniel I. Gordon
Associate Dean for Government Procurement Law Studies

Steven L. Schooner
Nash and Cibinic Professor of Government Procurement Law

Joshua I. Schwartz
E.K. Gubin Professor of Government Contracts Law

Christopher R. Yukins
Lynn David Research Professor in Government Procurement Law

Government Procurement Law Program

The George Washington University Law School
2000 H Street, NW
Washington, DC 20052
www.law.gwu.edu

Follow us:



www.facebook.com/groups/GWProcurement/



LinkedIn Group:
<http://bit.ly/GWprocurement>

What's the Value of a GAO Protest?

On June 4 Associate Dean Daniel I. Gordon presented a summary of his recent *Public Contract Law Journal* article, "Bid Protests: The Costs are Real, But the Benefits Outweigh Them," which presents research about what happens after GAO sustains protests, including the frequency with which successful GAO protests result in the protester actually obtaining the contract. Dean Gordon's research and analysis, which benefited from the

assistance of GW Law students, have generated discussion throughout the procurement community, and his presentation opened a dialogue with subject experts in the audience. ■



(front row, from left) Lynda O'Sullivan, U.S. Air Force; Maria Swaby, LLM '12, General Services Administration; Courtney Edmonds, SAIC; Associate Dean I. Gordon; and James McCullough, Fried Frank LLP. (back row, from left) Professor Steven Schooner; Alan Chvotkin, Professional Services Council; David Black, Holland & Knight LLP; and Jay Maroney, JD '00, Senate Armed Services Committee.

John Pachter Interview from page 3

Looking at GW Law and its Government Procurement Law Program today, what do you view as their primary strengths? What do you think needs to be strengthened and improved?

The program has always been strong and has provided valuable service not only to GW students but also to the entire government contracts bar and the public in general. I think the program does a better job than ever of training people for the practice of law. In particular, I would point to the moot court program, named for our friend and colleague, the late Gil Cuneo, and to student involvement in the *Public*

Contract Law Journal. The joint program with the Business School offers fresh opportunities for interdisciplinary studies. Linking up with scholars, practitioners, and academics in other countries, as you have done, is essential in our global environment. Every day we hear more examples of young people living, working, and even settling in other countries. The world is shrinking, and the changes will no doubt multiply even more rapidly in the coming years. You and your faculty are hard at work on creative approaches to this new reality. Overall, the students emerge with better skills and a heightened appreciation for the demands of law practice.

There are many daunting challenges ahead. They include the role of online training. Overnight we have seen an explosion of offerings by universities on the web, much of it free. Where is this going to take us? We don't know, but the public isn't waiting and the Law School can't afford to wait; it has to move forward with a creative response.

Thank you, John, for your insightful comments and for sharing your time.

A pleasure. I appreciate as always the opportunity to support and serve GW's Government Procurement Law Program. ■

Annual Alumni and Friends Luncheon



Professor Steven Schooner holds a bag of raffle entrants' names while Assistant Dean Jessica Tillipman draws a winner.

On February 22 the Government Procurement Law Program leadership hosted its annual Alumni and Friends Luncheon at the Omni-Shoreham Hotel, at the conclusion of the West Government Contracts Year in Review Conference. As in past years, the event was marked by the warmth and conviviality of the gathering, with laughter and chatting mixing with the job-related networking so valued by attendees (especially GW Law students!). ■



Ruth Burg, BS, AA '45, JD '50, and Judge Carol Park-Conroy



(from left) Professor Cao Fuguo, Central University of Finance and Economics, Beijing, Professor Emeritus Ralph C. Nash Jr., and Professor Joshua I. Schwartz

Program with the Special IG for Iraq Reconstruction



David Laufman and Stuart W. Bowen

In April GW Law's Government Procurement Law Program hosted a program featuring Stuart W. Bowen Jr., Special Inspector General for Iraq Reconstruction (SIGIR). The program was co-sponsored by the American Bar Association Section of Public Contract Law's Battle Space and Contingency Procurements Committee. Students and practitioners gathered to hear Mr. Bowen share lessons learned from his nine

continued on page 11

Katie John Interview from page 3

what's clear, what's gray, and then suggest what the "right" answer should be.

Was there one additional procurement law course that you wish you had taken at GW?

Government Contracts Advocacy. I took the various foundation courses, such as Formation and Performance, as well as Cost & Pricing and Comparative Public Procurement. But in my other law school studies, I enjoyed—and got a lot of out of—the writing and trial advocacy courses. Looking back, I wish I'd been able to fit the Government Contracts Advocacy course into my schedule.

What is the toughest part of the transition from being a law student to practicing law?

The stakes are a lot higher. In law school, when you are participating in a moot court or mock trial, there are no practical consequence to your success or failure. They were good learning experiences and I took them very seriously, but now when I'm working on a protest, writing a motion, or doing research, the stakes are

a lot different. A client is relying on our work and the outcome of the matter could make a real difference for the company.

People often say that they fell into government procurement law by accident. What about you—how did you come to practice in this area? And what is your view of government procurement law at this point, about a year after you started practicing?

Like many, I fell into government contracts by accident. A fellow GW grad, convinced me that I should compete for a spot on the *Public Contract Law Journal* in my 1L year. It wasn't until after I got on the journal that I really understood what government contracts was, and it wasn't until I was serving as the Senior Articles Editor for the journal that I really fell in love with government contracts. Now I couldn't imagine specializing in anything else! From a practical standpoint, it's a great area of law to practice in because it is relatively stable. The government is always going to need to buy things, and need

lawyers to help them through the process. Clients are always going to need guidance as they work to sell goods and services to the government. I also find the type of work I do interesting, but more than that, I really like how friendly and tight-knit the government contracts bar is.

If you could give one piece of advice to 2Ls and 3Ls, what would it be?

Use the alumni network! I've received a good handful of emails from GW students this year asking for informational interviews or advice on law school or the job search process. I'm always happy to help, as long as my schedule permits it, and I think most of the alumni I know would say the same. I'm lucky that I found my job through the regular interview process, but I don't think I appreciated during law school how helpful it could be to talk to alumni when deciding on a career path or researching job opportunities.

Katie, thanks for sharing your insights with us! ■

Faculty News

Papson Joins Adjunct Faculty



Thomas C. Papson

Thomas C. Papson, who recently retired as a partner at Government Contracts Advisory Board member McKenna Long & Aldridge, has been appointed by the Law School faculty to serve as a Professorial

Lecturer in Law and a member of the Government Procurement Law Program's adjunct faculty. Shortly after his appointment, Mr. Papson taught his first course, leading a seminar in government contracts advocacy in the summer session, with a focus on bid protest litigation. Associate Dean Daniel I. Gordon said that the Law School was "honored and delighted" to have Mr. Papson join the adjunct faculty. "Tom brings a wealth of experience and insight that is invaluable for our students" Gordon noted. "His expertise is based on his many years litigating at both the U.S. Government Accountability Office and the Court of Federal Claims." For his part, Mr. Papson said that he was "honored to be joining the Law School's Government Procurement Law Program, both because of its reputation as the premier program of its kind in the country and because of the high quality and collegiality of its faculty." Professor Steven Schooner characterized Mr. Papson as an "extraordinary addition to the adjunct faculty," and Professor Christopher Yukins referred to Mr. Papson's "intellectual prowess" and his unique ability "to help students bridge the gap between law and practice." Mr. Papson is joining Professor Schooner and Associate Dean Gordon in teaching Formation of Government Contracts in the current fall semester, and he plans to lead the Government Contracts Advocacy seminar again in the upcoming spring semester. ■

Interview with Adjunct Faculty Member Richard Gray

How did you come to start teaching as a member of the adjunct faculty at GW Law?

In the spring of 2008, Visiting Professor Danielle Conway-Jones was leading that semester's Government Contracts Seminar, and she chose intellectual property (IP) as the focus area. She brought together an impressive group of practitioners and scholars, including Professors Ralph Nash and Fred Lees, and D. Daniel Dzara, LL.M., who at the time was a colleague of mine at the Air Force. I was transitioning from the Air Force's Office of General Counsel to my current post at the Department of Defense (DoD), and I was delighted to be invited to join that team. Student feedback later showed that the focus on IP was an unqualified success, so I wasn't surprised when the seminar team decided to continue dedicating the spring seminar to a focus on IP. The unavailability of the earlier "dream team" ended up allowing me to take the lead. And the rest, as they say, is history.

"I think the thing that is most satisfying may be when a former student goes out of their way to tell me how much the course has helped them in their career."

How has the IP course evolved since then?

In the ensuing five years, the course has become a 'stand-alone' offering that we call the Government Procurement of Intellectual Property Seminar, though we retained its original two-hour format. We were basically "sold out" in both spring 2010 and spring 2011, and we had to turn

students away. In order to better meet the student demand without destroying the limited enrollment seminar format, we have been offering the course both fall and spring since fall 2011.

What do you find most satisfying in the teaching experience at GW Law?

It's really hard to name one thing. Maybe it's the kick I get out of seeing the light go on for the students when they get it. All it takes is a student's nodding head indicating a moment of edification, or a well-framed question that just happens to serve as the perfect setup for the key point I'm trying to make—or perhaps serving as the perfect segue for the next major topic—and I get all charged up and walk away from that session smiling. The good thing is that most of the class sessions at GW Law offer at least one such moment, so almost every class is like a little shot of adrenaline for me.

And now that I've got a few years experience, I think the thing that is most satisfying may be when a former student, who is now out in the workforce, goes out of their way to tell me how much the course has helped them in their career, or how glad they were that they took the course in view of the heavy flow of IP issues they're seeing on a regular basis at work. Just yesterday I received an email along those lines from a former student now in practice. What could be more satisfying to a teacher?

Going back to your first year at GW Law, what most surprised you about teaching at the school?

I've been surprised at how much I've had to adapt my approach to teaching these materials. In my day job, I've been working and training others in this subject matter for 20 years, with the training being primarily in-house to other government lawyers and the acquisition workforce, and secondarily in more public forums such as bar association conferences and workshops. When I first came to GW, I figured I'd be able to pretty



Richard Gray

continued on page 8

Richard Gray Interview from page 7

much just tweak the same training techniques and methods that had worked for me in the DoD environment. That turned out not to be the case.

In the DoD or private bar environment my audiences, for the most part, comprise lawyers or other professionals who are actively engaged in federal procurement. In many cases they have years of work experience, or significant prior training in procurement or IP issues, or both. At GW, by contrast, while my students generally bring a wider variety of backgrounds, experience, and expertise, I see a higher percentage of folks who are getting essentially their very first exposure to the materials. To them, everything seems new and strange at times, and complex, and confusing, and stupidly bureaucratic. For example, I see students who are coming to the seminar from the IP track, and even though they might be comfortable with the classic forms of IP in commercial transactions, my seminar might be the first time they're being exposed to the mystical world of federal procurement. For all they knew beforehand, "FAR" was just a way to describe a measure of distance. That presents different challenges from what I'm used to seeing in my day job.

Teaching students is simply a different game from giving a speech, however informative, or making a presentation, no matter how entertaining, to professionals and DoD personnel. Frankly, it's a lot harder to *teach* the material. Teaching necessarily requires more tailored engagement on my part in order for it to be beneficial to the student. The good news is that I've been surprised at how willing the students are to engage in the live, in-class negotiation exercise that we use as the capstone event for the seminar—far more than in training sessions I've seen outside the Law School.

That brings me to another key point: I have been very impressed by how focused, serious, and professional GW students are. I get an interesting cross-section in my seminar—some pretty new to government contracts and to IP, some coming in from the IP side and perhaps getting

their first taste of government contracts, and some coming in from the government procurement side, but usually still feeling like novices with IP. I also find the mix of LLMs and JDs enriches the class discussion. In particular, it's worth giving a shout-out to the JD candidates taking the course, who often do especially well in the class, even if they come in with little background in either government procurement or IP. The best proof may be the in-class licensing negotiation exercise that is the culmination of the seminar, along with the write-up of that exercise that serves in lieu of a final exam. The purpose of the exercise is to highlight the fundamental reason that any of us might want to learn this material: to be able to advocate for our clients' best interests, which in this context is to make a successful business transaction in which both parties are pleased with the outcome (but your client is more pleased).

"I have been very impressed by how focused, serious, and professional GW students are."

Do you have a particularly funny moment to share with us?

Well, this one is a bit embarrassing, but since you asked... Early in my time at GW Law, I was astonished to read an evaluation where the student said that Prof. Gray "should have groupies that follow him, because he is a rock star." Maybe to prevent me getting a swelled head, a year or two later a student wrote in another evaluation that they had heard Prof. Gray was a rock star, but "he certainly does not look like one." I laughed a lot over that one.

Is there any way in which you find teaching helps you with your day job at the Pentagon?

Absolutely. With every passing semester, I gain more insight into what aspects of the subject matter tend to be the most difficult to learn. I've learned that what is difficult for students is

often particularly challenging for any newcomers to the area. This helps me not only in learning how to convey the key rules and principles in a way that is more accessible to clients, it also allows me to build up a more specialized tool set for more direct, one-on-one or small group engagements. I've come to integrate these considerations into my approach to client relations at DoD. Now when I meet a new client for the first time, I find myself devoting time up front to finding out more about my client as an individual with a unique educational and professional background. Certainly, a client's personal background would in no way affect the substance of my legal advice to them, but it may alter the manner in which I convey that information. For example, I have four kids, all boys, between the ages of 4 and 9. If I meet a new client that also had several kids, especially boys, I might find myself making more references to *Lord of the Flies* than I would to another client. The bottom line is that I believe that my experience at GW Law has helped me communicate more effectively with my colleagues, clients—even opposing counsel—by better anticipating what will be most challenging for them, and finding more effective ways to engage them.

Do you have any thoughts to share about your future activities at GW Law?

I have been engaged in discussion with Paul Rosenzweig, also a member of the adjunct faculty, about putting together a new seminar about cybersecurity and government contracting. I think that it could be a joint offering of the school's government procurement and national security programs. Creating a new course is always a lot of work, but cybersecurity is so important that the course begs to be taught. The only challenge is finding time to get it started!

Richard, thank you for joining us for this interview, and thanks for being one of the rock stars of our adjunct faculty! ■

Competition and Procurement from page 1

Secretary of Defense for Acquisition Technology, and Logistics—the Department of Defense’s senior acquisition official—explained the Department’s “Better Buying Power” initiative, and responded to numerous questions and comments from the audience. The program also included three panel discussions. One panel, led by Professor Christopher Yukins, examined the nature of competition in procurement



Marcia Madsen, Mayer Brown, and William Woods, General Accountability Office (both seated), discuss competition policy with Professor Albert Sanchez Graells, University of Hull Law School, United Kingdom.



The Hon. Frank Kendall

systems. The second panel, chaired by Professor Steven Schooner, looked at the impact of mergers and acquisitions, and the third panel, moderated by William E. Kovacic, Global Competition Professor of Law and Policy, discussed the intersection of antitrust and procurement law. Keynote speaker Linda P. Hudson, President and CEO of BAE Systems, Inc., addressed a large luncheon audience. Throughout the program, the discussions were enriched by the participation of individuals working in the executive and legislative branches, with contractors, and in academia, as well as a number of European experts who contributed complementary perspectives. ■

Journal from page 2

Several GW Law Government Contracts Advisory Board members contributed articles, including Ruth Burg, BS, AA '45, JD '50; W. Stanfield Johnson of Board member Crowell & Moring; and Richard C. Johnson of Board member Smith Pachter McWhorter. In addition, two articles were written by attorneys at Board member McKenna Long & Aldridge—one by James J. Gallagher, David J. Ginsberg, and Keith M. Byers, and the other by E. Sanderson Hoe and Mary E. Buxton. For GW Law students, writing for the PCLJ is often their first opportunity to publish a law review piece, and student notes feature prominently in each issue. Some notes grow out of papers prepared for GW Law courses, others are adapted from students' LLM theses. For more on the PCLJ, see pclj.org. The editorial board welcomes suggestions for topics for future issues of the journal. ■

GOVERNMENT CONTRACTS ADVISORY BOARD

CHAIRMAN

Paul F. Khoury, JD '86
Wiley Rein LLP

CHAIRMEN EMERITI

Thomas M. Abbott, JD '84
McKenna Long & Aldridge LLP

J. Richard Knop, JD '69
FedCap Partners LLC

Rand L. Allen Esq.
Wiley Rein LLP

Michael J. Askew Esq.
General Dynamics Corporation

Mathew C. Blum, JD '88
Office of Federal Procurement Policy

The Hon. Ruth C. Burg, BS '45,
JD '50

Mark D. Colley Esq.
Arnold & Porter LLP

A. Lynn David
David Associates

Alice M. Eldridge, JD '91
BAE Systems, Inc.

Jeffrey L. Handwerker, JD '95
Arnold & Porter LLP

Kevin F. Hartley, JD '83
Microsoft Corporation

Seymour Herman, LLM '66

Barbara W. Humpton
Siemens Government Technologies Inc.

Fernand A. Lavalée, P.C.
DLA Piper

Frederic M. Levy Esq.
McKenna Long & Aldridge LLP

Marcia G. Madsen Esq.
Mayer Brown LLP

Michael F. Mason, JD '96
Hogan Lovells LLP

James C. Mifsud, LLM '86
Lockheed Martin Corporation

Ralph C. Nash Jr., JD '57
The George Washington University Law School

Harvey Nathan, JD '70
Northrop Grumman Corporation

Robert Nichols Esq.
Covington & Burling LLP

Philip O. Nolan, JD '94
Galeos Group

John S. Pachter, JD '66, LLM '70
Smith Pachter McWhorter PLC

Jacob B. Pankowski, JD '81
Greenberg Traurig LLP

Rebecca E. Pearson, LLM '96
Venable LLP

Ronald S. Perlman, LLM '80
Holland & Knight LLP

Alan Peterson
Robinwood Consulting LLC

Edwin L. Phelps, JD '68
Phelps Enterprise International

Dean Wayne Rutley, JD '86
Womble Carlyle Sandridge & Rice PLLC

Angela B. Styles Esq.
Crowell & Moring LLP

Joseph D. West, JD '77
Gibson Dunn & Crutcher LLP

The Hon. Thomas C. Wheeler
U.S. Court of Federal Claims

Ralph O. White Jr., Esq.
U.S. Government Accountability Office

Karen L. Wilson, LLM '82
The Boeing Company

FACULTY LEADERSHIP

Daniel I. Gordon
Associate Dean for Government Procurement Law Studies

Co-Directors

Steven L. Schooner, LLM '89
Nash and Cibinic Professor of Government Procurement Law

Joshua I. Schwartz
E.K. Gubin Professor of Government Contracts Law

Christopher Yukins
Lynn David Research Professor in Government Procurement Law

Selected Programs, Presentations, and Publications

On February 7 **Professor Laura Dickinson** and **Associate Dean Daniel I. Gordon** spoke at Emory Law School as part of Emory's annual Randolph W. Thrower Symposium. The topic of the symposium was "Privatization: Managing Liability and Reassessing Practices in Local and International Contexts."

On February 12 **Associate Dean Gordon** spoke at a conference held by Government Contracts Advisory Board member Siemens titled "Siemens Federal Symposium: The Federal Market View."

On April 24 **Assistant Dean Jessica Tillipman** moderated a panel discussion on "Complying with the FCPA—An Exploration of Ethical Issues Raised by Recent Cases," at the Food and Drug Law Institute's annual conference.

In April **Associate Dean Gordon** and **Professor Schooner** discussed understanding and reporting on government contracts-related issues at the Society of American Business Editors and Writers spring conference in Washington, D.C.

On May 4 **Professor Steven Schooner** gave the luncheon presentation at the Army JAG Corps Mid-Atlantic Region conference on Federal Government Contracts at Camp Dawson, West Virginia.

Associate Dean Gordon is serving on the World Bank's International Advisory Group on Procurement, and has been working, along with **Professors Christopher Yukins** and **Steven Schooner**, on various efforts at the World Bank focused on public procurement.

On May 8 **Assistant Dean Tillipman** gave a lecture on "Corruption in Government Procurement" to a group of Brazilian government officials at The George Washington University's Institute of Brazilian Issues.

On May 28–30 **Associate Dean Gordon** and **Professor Schooner** played leading roles in a regional conference in Casablanca, Morocco, on best practices and good governance in public procurement, sponsored by the Commercial Law Development Program of the U.S. Department of Commerce. The program was attended by government officials from the People's Democratic Republic of Algeria, the State of Libya, the Kingdom of Morocco, and the Republic of Tunisia.



Associate Dean Gordon (l) and Professor Schooner, joined here by UNCITRAL attorney Caroline Nicholas, at the U.S. Department of Commerce Regional Conference on Best Practices and Good Government in Public Procurement in Casablanca, Morocco.

In June **Professor Steven Schooner** discussed "After the Binge: The New Realities in Federal Procurement" at the NCMA Washington, D.C., Chapter's 32nd Annual Fellows Night.

In June **Professor Christopher Yukins** addressed procurement conferences in Mongolia (sponsored by the European Bank for Reconstruction and Development/UNCITRAL) and Kyrgyzstan (sponsored by the U.S. Commerce Department's Commercial Law Development Program), regarding procurement reform in those two nations. In Ulaanbaatar, Professor Yukins had an opportunity to speak with the Mongolian



Professor Christopher Yukins discusses procurement reform and anti-corruption efforts with Mongolia TV Bloomberg.

press (Bloomberg and a local television network), on anti-corruption initiatives in that country.

In June **Professor Schooner** presented a keynote address to open the Greater Washington Society of CPAs annual government contracts conference.

On June 6 **Associate Dean Gordon** co-facilitated a special session of the Procurement Round Table (PRT) at GW Law. During the session, in which leading acquisition officials from civilian and defense agencies participated, there was a not-for-attribution discussion of practical steps that could be taken to address current challenges facing the federal acquisition workforce. The PRT is a nonprofit organization created by former federal acquisition officials concerned about improving the economy, efficiency, and effectiveness of the federal acquisition system.

On June 24 and 25, **Professors Schooner** and **Yukins**, along with **Associate Dean Gordon**, spoke at the international conference on government contracts titled "Public Procurement: Global Revolution VI" at the University of Nottingham, England.

On June 27 and 28 **Professor Schooner** spoke to graduate students of Professor Gabriella Racca of the Faculty of Economics at the University of Turin, Italy. Professor

Schooner's participation concluded a cycle that began with instruction in Turin by **Professor Yukins** and **Associate Dean Gordon** in December 2012.

In July a series about Virginia's lax ethics laws that **Assistant Dean Tillipman** wrote about as Senior Editor for the FCPA Blog was featured in a *Slate* magazine article.

On September 23, 2013, **Professor Christopher Yukins** launched a weeklong course on anti-corruption in procurement for the International Anti-Corruption Academy (IACA), located just outside Vienna, Austria. The course was coordinated with the UN Office of Drugs & Crime and supported by funding from the Siemens Integrity Initiative.

Neal J. Couture, Director of GW's Government Procurement Law and Business Programs, gave presentations on "Managing Your Career Without Boundaries: The Seven Critical Career Skills" and "CFCM Federal Acquisition Regulation (FAR) Review: FAR Part 15 Contracting."

The fourth edition (2013) of the *Government Contracts Reference Book*, written by **Professor Emeritus Ralph C. Nash Jr.**, Karen O'Brian-Debakey, and **Professor Steven Schooner** is now in print.

Assistant Dean Tillipman's article, "The Congressional War on Contractors," has been published by the *GW International Law Review* and is now available on SSRN ■



Neal Couture

GW Law at the NCMA World Congress

In July GW was prominently featured at the NCMA World Congress, held in Nashville, Tennessee. Professor Steven Schooner moderated the opening plenary panel on international contracting issues, which included Professor Christopher Yukins and Sandra Fenske, JD '84, Andrew Irwin, JD '96, and Marques Peterson, (LLM, thesis pending). GW Procurement Law Program Director Neal Couture also gave a presentation (see photo, above). ■



Professor Christopher Yukins, Sandra Fenske, and Andrew Irwin

GW Law at San Francisco ABA Meeting



Interim Dean Gregory E. Maggs welcomes guests to the reception.

At the American Bar Association's annual meetings in San Francisco in August, Professor Christopher Yukins led a discussion before the Section of Public Contract Law's Council—of which Professor Steven Schooner is a member—about changes needed in the Model Procurement Code for state and local governments. The discussion grew out of the seminar on state and local procurement that Professor Yukins launched this spring, and he was joined in San Francisco by five students from that seminar: Richard Coleman, Greg Harding, George Petel, Paul Metzner, and Alix Schroeder. Also at the San Francisco ABA meetings, Professor Steven Schooner and Associate Dean Daniel I. Gordon were speakers on a panel about the implications of sequestration and budgetary pressures on federal procurement. ■

Iraq Reconstruction from page 6

years serving as the SIGIR. He focused in particular on the points included in his final report, *Learning from Iraq*. Mr. Bowen's remarks were followed by comments from David Laufman, former SIGIR Associate General Counsel, as well as Clark Kent Ervin, who served as Inspector General at three different federal agencies. ■

Student News

GW Law Students Interning Across the Government

GW Law has long been renowned for the opportunities its students have to serve as externs in government agencies, and that tradition continues, to the benefit of both participating students and the agencies welcoming them. With the help of Assistant Dean Jessica Tillipman, students in the Government Procurement Law Program have had noteworthy success in finding relevant

externships. Within the past year, GW procurement law students have served as externs in the contracting offices of more than two dozen government agencies. Those include defense agencies, such as the Army Legal Services Agency, as well as many civilian ones, including offices within the Department of Justice, Department of Homeland Security, Office of Management and Budget, and General Services Administration. In addition to those many federal agencies, GW Law students have worked in local government procurement offices, such as the District of Columbia's Contract Appeals Board as well as the District's Chief Financial Officer's and Attorney General's offices. Those externships present unique opportunities to learn and network for our students, and the Law School works closely with the agencies to ensure their success. ■

Daniel Cook, JD '13, Wins NCMA Award

Daniel Cook, JD '13, received the first place award in the W. Gregor Macfarlan Excellence in Contract Management Research and Writing Program. The contest focuses on theoretical and empirical papers relevant to the practice of contract management. Cook's paper will be published in the *Journal of Contract Management*. ■



Daniel Cook is presented with the Macfarlan Award by NCMA President Russel Blaine at the NCMA World Congress in Nashville.

**THE GEORGE
WASHINGTON
UNIVERSITY**

WASHINGTON, DC

Law School
Government Procurement Law Program
2000 H Street N.W.
Washington, D.C. 20052

FIRST CLASS
U.S. Postage
PAID
Washington, D.C.
Permit #593